

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

MATTHEW HOLLICE GILBERT

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CIVIL ACTION NO. 1:21-CV-195

*versus*

BEAUMONT BAPTIST BEHAVIORAL  
HEALTH CENTER & MICHAEL  
GILLESPIE

**ORDER ADOPTING REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

This case is referred to the Honorable Zack Hawthorn, United States Magistrate Judge, for all pretrial matters. The court has received and considered the Report and Recommendation of the magistrate judge (Doc. No. 16), which recommends granting Defendant Dr. Michael Gillespie's Fed. R. Civ. P. 12(b)(6) "Motion to Dismiss" (Doc. No. 15).<sup>1</sup> No formal objections have been filed to the Magistrate Judge's Report and Recommendation. However, Plaintiff Matthew Gilbert ("Gilbert") filed a "Motion to Retain Case on Docket." (Doc. No. 18). To the extent the "Motion to Retain" can be construed as an objection to the Report and Recommendation, it is overruled.

A party who files timely written objections to a magistrate judge's report and recommendation is entitled to a *de novo* determination of those findings or recommendations to which the party specifically objects. 28 U.S.C. § 636(b)(1)(c); FED. R. CIV. P. 72(b)(2)(3). "Parties filing objections must specifically identify those findings [to which they object].


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<sup>1</sup> This motion incorporated a joint motion to dismiss filed by both Defendants. (See Doc. No. 8). Therefore, this dismissal applies to both defendants.

Frivolous, conclusive or general objections need not be considered by the district court.” *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). In his objection, Gilbert does not identify any specific issue of law or fact, among those set forth in the magistrate judge’s report and recommendation, with which he disagrees. Therefore, Gilbert’s objection fails to invoke his right to a *de novo* review of the Report and Recommendation. Nonetheless, the Court has undertaken a *de novo* review of the Report and Recommendation, and the Court concludes that the magistrate judge’s findings and conclusions are correct. *See Douglass*, 79 F.3d at 1429 (noting that a district court may alternatively find the magistrate judge’s findings and conclusions were correct even though a party did not properly object to the report and recommendation). Moreover, Gilbert appears to concede in his objection that this Court is without jurisdiction by asking to be “placed in the proper court where such relief may be sought.” (Doc. No. 18).

It is, therefore, **ORDERED** that Gilbert’s objection is **OVERRULED**; the Magistrate Judge’s Report and Recommendation (Doc. No. 16) is **ADOPTED**; Gillespie’s Motion to Dismiss (Doc. No. 15) and Defendants’ Joint Motion to Dismiss (Doc. No. 8) are **GRANTED**; and Gilbert’s case is **DISMISSED**. The Court declines to exercise supplemental jurisdiction over any remaining state law claims. *See* 28 U.S.C. §1367(a).

SIGNED this 17th day of September, 2021.

  
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Michael J. Truncala  
United States District Judge